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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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| EXAMINER |
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KLIMOWICZ, WILLIAM JOSEPH

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2627

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03/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,867

Applicant(s)

CHOI, UN-JIN

Examiner

William J. Klimowicz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-3, 9-13, 24 and 25 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 14-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12-3-08.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Status

Claims 1-26 are currently pending.

Claim Objections

Claims 11 and 26 are objected to because of the following informalities:

(I) With regard to claim 11 (line 3), the word “disk” should be changed to the word -- disc--.

(II) With regard to claim 26 (line 3), the word “disk” should be changed to the word -- disc--.

Appropriate correction is required.

Claim 22 is objected to because of the following informalities and appropriate correction is required.

The following phrase(s) lack clear antecedent basis within the claim(s), i.e., either the particularly recited passage fails to be properly introduced prior to its appearance at that point in the claim or the structure recited in the passage is not an inherent part of or component of the previously recited structure. The lack of antecedence as noted *infra*, is merely formal, since the claims can be understood in light of the instant specification and drawings; the antecedence informalities delineated below do not rise to the level of a rejection under 35 USC 112 2nd paragraph:

(I) Claim 22 (line 2), “the driving motor.”

Certified Copy of Translation of Priority Document

The certified translation of the foreign priority application, upon which priority is based, has been received by the Office.

More specifically, the foreign priority application, upon which priority is based (November 13, 2002) antedates the reference to Watanabe (US 6,922,836 B2) (with an earliest effective filing date under 102(c) of June 12, 2003), and has been perfected, since the Applicant has filed a certified priority document in the application and the Examiner has established that the priority document satisfies the enablement and description requirements of 35 U.S.C. 112, first paragraph.

Thus, the claims as *presently drafted*, are entitled to the date of November 13, 2002.

Information Disclosure Statement

The information disclosure statement filed December 3, 2008 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language.

More specifically, the reference listed as Item BE, and listed as “Chinese Office Action for corresponding Chinese Patent Application No.:2003101149636 dated November 7, 2008 (4 pgs)” is not in English.

It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Watanabe et al. (US 2001/0026520 A1).

As broadly set forth in claim 1, Watanabe et al. (US 2001/0026520 A1) discloses an optical disc drive (1) comprising: a deck (tray (2)) having a protrusion (see FIG. 4, lower extending portion of (2), that extends into the lower well of (10)), a spindle motor (6) that rotates an optical disc (3) being mounted on the protrusion, and an optical pickup (5) sliding along a radial direction of the optical disc drive (1) also being mounted on the protrusion (see FIGS. 1, 2), the spindle motor (6) being directly mounted on the deck (tray (2)) without a space therebetween; a lower case (10), that the deck (2) slides into and out of, the lower case (10) has a penetration (internal space of (10) into which tray (2) slides, e.g., the space of (10a) into which the main portion of (2) is provided, when (2) is within the lower case (10) - see FIGS. 4, 5A) having a *substantially* same shape as the protrusion (see FIG. 4) such that a sliding limit of

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the protrusion (see FIG. 4, lower extending portion of (2), that extends into the lower well of (10)) corresponds to an edge of the penetration (e.g., see FIG. 5A); and a cover (11 or alternatively, the cover (9)) that covers the penetration (i.e., when the tray (2) is fully inserted into drive (10), the cover (11) limits the amount that the protrusion can move into the space; alternatively, the cover (9) covers the top of the well (10a) of the drive).

As broadly set forth in claim 11, Watanabe et al. (US 2001/0026520 A1) discloses an optical disc drive (1), comprising: a lower case (10), having an upper and a lower surface (top and bottom side), including a main control board (13) controlling the operation of the optical disk drive, and a penetration (receiving space (10a) into which tray (2) is inserted); a deck (2) which slides in and out of the lower case (10) occupying a volume of protruding space, a spindle motor (6) and an optical pickup (5) being mounted on the protruding space, the spindle motor being mounted directly on the deck (2) without a space therebetween and a sliding limit of the protruding space corresponding to an edge of the penetration (receiving space (10a) into which tray (2) is inserted) - see FIG. 5; and a cover (cover (9)) covering the penetration (i.e., the cover (9) overlies the tray, and hence covers the volume of the penetration into (10a), into which tray (2) slides) when the tray (2) is fully inserted into drive (10), wherein the volume of protruding space has a same shape as the penetration (i.e., when the tray (2) is fully inserted into drive (10), the tray occupies the same volume as the lower well portion (10a) of the lower case (10)).

As per claim 2, wherein the cover (11) covers the penetration so that a lower surface (e.g., internal; surface of (11)) of the cover (11) does not protrude to a lower surface of the lower case (10).

As per claims 3 and 12 wherein the cover (11) comprises a plate that is thinner than the lower case (10) (at least in the dimension shown in FIG. 1.

As per claim 13 wherein the lower surface of the cover does not extend lower than a lower surface of the lower case - flip FIG. 1 upside down.

Claims 9, 10, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe et al. (US 2001/0026520 A1).

Additionally, as per claims 9, 10, 24 and 25, although Watanabe et al. (US 2001/0026520 A1) does not expressly states wherein the optical pickup serves to reproduce data from a CD-ROM and records data on and reproduces data from a CD-RW or to reproduce data from a CD-ROM, record data on and reproduce data from a CD-R, and reproduce data from a DVD, Watanabe et al. (US 2001/0026520 A1) does indeed suggest such a reproduction and recording use of such discs, e.g., see paragraph [0046], whereby the disc can be “recorded” to.

Official notice is taken that CD-R, CD-ROMs and DVDs are notoriously old and well known and ubiquitous in the art; such Officially noticed fact being capable of instant and unquestionable demonstration as being well-known.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the device of Watanabe et al. (US 2001/0026520 A1) be capable or serving CD-Rs, CD-ROMS, CD-RWs and DVDs as is well known in the art.

The rationale is as follows: one of ordinary skill in the art would have been motivated to have the device of Watanabe et al. (US 2001/0026520 A1) be capable of serving CD-Rs, CD-ROMS, CD-RWs and DVDs as is well known in the art in order to be able to read high density discs with large capacity (e.g., DVDs) while also being able to record information onto a CD (e.g., CD-Rs and CD-RWs) as is well known, established and appreciated in the art.

Allowable Subject Matter

Claims 4-8 and 14-23 are tentatively objected to as being dependent upon a rejected base claim, but, pending an updated search, amendments or arguments presented by the Applicant and considered by the Examiner in reply to this office communication, would be favorably considered if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 is tentatively considered allowable over the art of record, pending an updated search, amendments or arguments presented by the Applicant and considered by the Examiner in reply to this office communication.

Response to Arguments

Applicant's arguments with respect to the pending rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (571) 272-7577. The examiner can normally be reached on Monday-Friday (7:30AM-6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William J. Klimowicz/
Primary Examiner, Art Unit 2627